

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HERNANDO RODRIGUEZ

Plaintiff,

v.

**IMMIGRATION AND CUSTOMS
ENFORCEMENT; NEW JERSEY FIELD
OFFICE DIRECTOR, Immigration and
Customs Enforcement; JANET
NAPOLITANO, Secretary, Department of
Homeland Security; and ERIC HOLDER,
Attorney General of the United States,**

Defendants.

11-CV-881(WJM)

ORDER

THIS MATTER comes before the Court on Petitioner Hernando Rodriguez's *pro se* petition for writ of habeas corpus under 28 U.S.C. § 2241 and request for preliminary injunction.

Rodriguez, a native and citizen of Colombia, is currently in the custody of United States Immigration and Customs Enforcement and is awaiting removal. Rodriguez entered the United States in 1999 and overstayed his visa. He is currently married to a United States citizen, though the two may be separated. In 2004, removal proceedings were initiated against him. Rodriguez applied for withholding of removal under the Convention Against Torture arguing that he feared persecution because he was HIV-positive. Following a hearing, the Immigration Judge denied his application. The Board of Immigration Appeals affirmed and dismissed his appeal. The Court of Appeals for the

Third Circuit subsequently denied his petition for review. *Rodriguez v. Attorney General*, 381 F. App'x 217, No. 09-2593 (3d Cir. May 20, 2010).

The Court has reviewed Rodriguez's petition and finds that it raises no new issues which were not already considered and decided over the course of the withholding of removal proceedings. The Third Circuit specifically noted and addressed Rodriguez's arguments relating to his HIV-positive status but denied his petition for review.

For the foregoing reasons and for good cause shown;

IT IS on this 23rd day of February 2011, hereby,

ORDERED that Rodriguez's Petition for Writ of Habeas Corpus and other relief is **DENIED**.

/s/ William J. Martini
WILLIAM J. MARTINI, U.S.D.J.